

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates to All Actions
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DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 08/11/2014

14-MD-2543 (JMF)

14-MC-2543 (JMF)

**AGREED ORDER REGARDING
THE PRESERVATION OF IGNITION SWITCH PARTS
GOVERNED BY NHTSA RECALL CAMPAIGN 14v-047000**

I. Introduction

General Motors LLC (“New GM”) and Plaintiffs, through Temporary Lead Counsel, jointly submit this Agreed Preservation Order for approval and entry by the Court. This Preservation Order sets forth New GM’s obligations for maintaining and preserving recalled ignition switch parts covered by National Highway Traffic Safety Administration (“NHTSA”) Recall Campaign 14v-047000.

II. Background

A. Proceedings in this Court

1. On June 12, 2014, the United States Judicial Panel on Multidistrict Litigation assigned *In re: General Motors LLC Ignition Switch Litigation*, 14-MD-2543 (“MDL 2543”), to this Court for coordinated or consolidated pretrial proceedings. (14-MD-2543, Doc. No. 1.)

2. On June 25, 2014, this Court entered Order No. 1, which stated, among other things, that “[a]ll parties and their counsel are reminded of their duty to preserve evidence that may be relevant to this action.” (14-MD-2543, Doc. No. 19 at 12.) The Order further stated that “[u]ntil the parties reach an agreement on a preservation plan or the Court orders otherwise, each party shall take reasonable steps to preserve all documents, data and tangible things containing

information potentially relevant to the subject matter of this litigation.” (*Id.*) Further, the Parties had at all times been subject to preservation obligations as soon as the duty to preserve arose.

B. NHTSA Recall Campaign 14v-047000

3. NHTSA Recall Campaign 14v-047000 concerns the safety recall of ignition switch parts from the following make, model, and model year vehicles:

Chevrolet Cobalt	2005-2010
Chevrolet HHR	2006-2011
Pontiac Solstice	2006-2010
Pontiac G5	2007-2010
Saturn Ion	2003-2007
Saturn Sky	2007-2010

4. Specifically, on February 7, 2014, New GM notified NHTSA that it was conducting a safety-related recall for ignition switches in model year 2005-2007 Chevrolet Cobalt vehicles and 2007 Pontiac G5 vehicles. This recall, GM recall number 13454, affected 619,122 vehicles.

5. On February 25, 2014, New GM informed NHTSA that it was conducting a safety-related recall for ignition switches in model year 2006-2007 Chevrolet HHR vehicles, 2006-2007 Pontiac Solstice vehicles, 2003-2007 Saturn Ion vehicles, and 2007 Saturn Sky vehicles. This recall, GM recall number 13454, affected 748,024 vehicles.

6. On March 28, 2014, New GM notified NHTSA that it was recalling certain model year 2008-2010 Chevrolet Cobalt, Saturn Sky, and Pontiac G5 and Solstice vehicles, and 2008-2011 Chevrolet HHR vehicles. This recall, GM recall number 14092, affected 823,788 vehicles.

7. GM recall numbers 13454, 14063, and 14092 are under NHTSA Recall Campaign 14v-047000. The total number of vehicles affected by NHTSA Recall Campaign 14v-047000 is 2,190,934.

C. New GM's Preservation Efforts

8. New GM represents that it requested dealerships submitting recall repair reimbursement claims to it for NHTSA Recall Campaign 14v-047000 also return replaced ignition switch parts to New GM. During the parts return process, the vehicle identification number of the automobile from which the parts had been removed is provided to New GM, from which the identity of the dealership that performed the repair can be determined. Dealerships then shipped the parts to New GM, which stores them in a warehouse.

9. As of July 23, 2014, New GM had received, or was in the process of receiving, ignition switch parts from more than 400,000 vehicles affected by NHTSA Recall Campaign 14v-047000.

GM Recall No.	Make	Model	Model Year	Parts Returned or in Process (as of 7/23/14)	Vehicles affected by Recall	Percentage of Vehicles From Which Parts Received (or in Process)
14063	Saturn	ION	2003	18,318	96,358	19.0%
14063	Saturn	ION	2004	24,684	121,107	20.4%
13454	Chevrolet	Cobalt	2005	30,057	140,978	21.3%
14063	Saturn	ION	2005	17,006	71,024	23.9%
14063	Chevrolet	HHR	2006	27,151	113,911	23.8%
13454	Chevrolet	Cobalt	2006	50,343	229,578	21.9%
14063	Saturn	ION	2006	24,216	96,227	25.2%
14063	Pontiac	Solstice	2006	2,639	18,750	14.1%
14063	Chevrolet	HHR	2007	25,068	99,672	25.2%
13454	Chevrolet	Cobalt	2007	51,953	215,667	24.1%
14063	Saturn	ION	2007	26,169	94,118	27.8%
13454	Pontiac	G5	2007	4,170	32,899	12.7%
14063	Pontiac	Solstice	2007	3,461	21,310	16.2%
14063	Saturn	Sky	2007	2,455	15,547	15.8%

14092	Chevrolet	HHR	2008	10,721	99,227	10.8%
14092	Chevrolet	Cobalt	2008	19,368	176,471	11.0%
14092	Pontiac	G5	2008	1,815	20,206	9.0%
14092	Pontiac	Solstice	2008	1,677	14,088	11.9%
14092	Saturn	Sky	2008	1,327	12,982	10.2%
14092	Chevrolet	HHR	2009	10,612	80,782	13.1%
14092	Chevrolet	Cobalt	2009	18,369	141,592	13.0%
14092	Pontiac	G5	2009	2,394	20,662	11.6%
14092	Pontiac	Solstice	2009	513	4,207	12.2%
14092	Saturn	Sky	2009	471	4,078	11.5%
14092	Chevrolet	HHR	2010	7,426	64,733	11.5%
14092	Chevrolet	Cobalt	2010	14,272	116,275	12.3%
14092	Pontiac	Solstice	2010	1	19	5.3%
14092	Saturn	Sky	2010	2	8	25.0%
14092	Pontiac	G5	2010	0	3	0.0%
14092	Chevrolet	HHR	2011	6,867	68,455	10.0%
	Totals			403,525	2,190,934	18.4%

The company estimates that by August 11, 2014, ignition switch parts from an additional 200,000 vehicles will either have been received by New GM or will be in the process of being shipped back to New GM by dealers. New GM represents that, to date, it has cost more than \$14 million to process and store recalled ignition switch parts for NHTSA Recall Campaign 14v-047000. This cost will increase as dealerships continue to return recalled ignition switch parts to New GM.

10. The Parties agree that based on the above representations New GM has preserved or taken reasonable steps to obtain and preserve ignition switch parts recalled under NHTSA Recall Campaign 14v-047000.

III. Protocol for Preservation of Ignition Switch Parts

11. New GM has represented that it will be subject to undue burden and incur unnecessary costs if the company continues to collect and store all the recalled ignition switch parts covered under NHTSA Recall Campaign 14v-047000. Plaintiffs are amenable to modifying New GM's obligations so long as Plaintiffs are in no way prejudiced. The Parties

agree that it is appropriate for the Court to enter preservation orders that properly balance the right of Plaintiffs to obtain relevant evidence against the potential undue burden and expense to GM of preserving large numbers of parts that have been the subject of recalls.

12. For good cause shown, the Court orders the following with respect to New GM's obligations to preserve ignition switch parts covered by NHTSA Recall Campaign 14v-047000. This Order supersedes Order No. 1 with respect to New GM's obligations to preserve ignition switch parts covered by NHTSA Recall Campaign 14v-047000.

A. Switch Parts Associated with Named Plaintiffs

13. New GM shall undertake reasonable efforts to assist any named plaintiff in a case that has been transferred to MDL 2543 (or pending in another venue) with preserving ignition switch parts covered by NHTSA Recall Campaign 14v-047000 that may be relevant to the plaintiff's claims. To allow New GM to do so, before a recall repair is performed, a named plaintiff (or his or her counsel) must provide both the dealership replacing the ignition switch parts and New GM with reasonable, advance notice that the plaintiff wishes to have parts preserved for purposes of litigation. New GM will then use reasonable efforts to arrange for the dealership making the repair to return the ignition switch parts to New GM for storage and preservation.

B. Preservation of Representative Sample of Other Switch Parts

14. As noted in paragraph 9 above, as of July 23, 2014, New GM is currently storing or in the process of storing recalled ignition switch parts from more than 400,000 vehicles subject to NHTSA Recall Campaign 14v-047000. Unless otherwise instructed by the Court, New GM is only obligated to preserve and must continue preserving the following number of recalled ignition switch parts covered by the aforementioned NHTSA Recall Campaign:

GM Recall	Make	Model	Model Year	Number of Parts to Be Preserved
14063	Saturn	ION	2003	18,318
14063	Saturn	ION	2004	24,684
13454	Chevrolet	Cobalt	2005	30,057
14063	Saturn	ION	2005	17,006
14063	Chevrolet	HHR	2006	27,151
13454	Chevrolet	Cobalt	2006	50,343
14063	Saturn	ION	2006	24,216
14063	Pontiac	Solstice	2006	2,639
14063	Chevrolet	HHR	2007	25,068
13454	Chevrolet	Cobalt	2007	51,953
14063	Saturn	ION	2007	26,169
13454	Pontiac	G5	2007	4,170
14063	Pontiac	Solstice	2007	3,461
14063	Saturn	Sky	2007	2,455
14092	Chevrolet	HHR	2008	10,721
14092	Chevrolet	Cobalt	2008	19,368
14092	Pontiac	G5	2008	1,815
14092	Pontiac	Solstice	2008	1,677
14092	Saturn	Sky	2008	1,327
14092	Chevrolet	HHR	2009	10,612
14092	Chevrolet	Cobalt	2009	18,369
14092	Pontiac	G5	2009	2,394
14092	Pontiac	Solstice	2009	513
14092	Saturn	Sky	2009	471
14092	Chevrolet	HHR	2010	7,426
14092	Chevrolet	Cobalt	2010	14,272
14092	Pontiac	Solstice	2010	1
14092	Saturn	Sky	2010	2
14092	Pontiac	G5	2010	0
14092	Chevrolet	HHR	2011	6,867
	Totals			403,525

The Parties agree that preservation of these parts will result in New GM preserving a statistically significant and representative sample of ignition switch parts covered by NHTSA Recall Campaign 14v-047000, and New GM may not argue otherwise for any purpose in litigation

15. Subject to paragraph 13, New GM is not required to preserve ignition switch parts covered by NHTSA Recall Campaign 14v-047000 over and above the number of parts identified in paragraph 14. New GM may dispose of and not further preserve any ignition switch parts for

a make and model year vehicle identified in paragraph 14 that exceed the number of parts to be preserved for that make and model year vehicle under paragraph 14. Consistent with this Order, and upon entry of it by the Court, New GM is authorized to and will withdraw its request to GM dealerships for them to return to New GM ignition switch parts covered by NHTSA Recall Campaign 14v-047000.

16. This Order shall also apply to related cases later filed in, removed to, or transferred to this Court.

17. All parties reserve the right to request a modification of this Order, including seeking an order further limiting New GM's preservation obligations with respect to the preserved vehicle ignition switch parts.

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SO ORDERED:

Dated: August 11, 2014
New York, New York



The Honorable Jesse M. Furman
United States District Judge

The Clerk of Court is directed to terminate Docket No. 236 in 14-MD-2543 and all associated entries in member cases.